

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

In the Matter of the:

Petition of the City of New Richmond for the Alteration of a Public Crossing of the Wisconsin Central Ltd. Tracks with 140<sup>th</sup> Street in the City of New Richmond, St. Croix County

9164-RX-573

FINAL DECISION

By letter dated July 29, 2004, the City of New Richmond petitioned the Office of the Commissioner of Railroads (OCR) for the alteration of a public crossing of the Wisconsin Central Ltd. (WCL) tracks with 140<sup>th</sup> Street located in the City of New Richmond, St. Croix County. (Crossing no. 693 046B / MP 412.52).

Jurisdiction: Secs. 195.28 and 195.29, Stats.

Pursuant to due notice, public hearing was held in this matter on August 27, 2004 in Madison, Wisconsin with hearing examiner Douglas S. Wood presiding.

On September 3, 2004, the hearing examiner issued a proposed decision. The OCR received no comments on the proposed decision. The Commissioner adopts the proposed decision as final without change.

Appearances:

**Parties**

City of New Richmond, Petitioner  
by  
Robert Berbian  
Director of Planning  
156 East 1<sup>st</sup> Street  
New Richmond, WI 54017

In Opposition:

Wisconsin Central Ltd.  
by  
Eric Ecklund  
Engineer Technical Services  
1625 Depot Street  
Stevens Point, Wisconsin 54481

## Findings of Fact

### THE COMMISSIONER FINDS:

The City of New Richmond proposes to alter the public crossing of the Wisconsin Central Ltd. tracks with 140<sup>th</sup> Street. The City plans to construct an 8'-wide pathway along the 140<sup>th</sup> Street corridor. The pathway would cross the WCL tracks just outside of the existing highway right-of-way.

140<sup>th</sup> Street is 30' wide and intersects the WCL tracks at an angle of about 60°. The crossing consists of one mainline track.

140<sup>th</sup> Street carried 515 ADT (average daily traffic) in 1999. The speed limit is 35 mph. 140<sup>th</sup> Street is a minor collector. The City projects that 15 to 20 pedestrians and bicyclists will use the pathway per day.

The railroad currently operates 4 through train movements per day over the proposed crossing location at a timetable speed of 30 mph.

One train-vehicle accident has occurred at this crossing since 1973. The accident occurred in 1995 with one injury.

The pathway would run along the west side of 140<sup>th</sup> Street north to CTH 'K' where it would connect with the planned extension of an east-west pathway along CTH 'K'. To the south the pathway would provide off-road access to 3 local schools and residential areas.

The City considered routing the pathway on the south side of the tracks so that a crossing of the tracks would not be required at 140<sup>th</sup> Street. However, residential developments are planned for the area north of the tracks along CTH 'K'. Routing the trail south of the tracks would not provide safer off-road access for those residential developments.

The City's proposal would improve public safety by separating pedestrians and bicyclists from the vehicular traffic on 140<sup>th</sup> Street. This area is rapidly developing and vehicular traffic will continue to increase.

The City proposes to warp the trail on the approaches to the tracks in order to allow for a 90° angle crossing of the pathway and the tracks. A right-angle crossing decreases the probability that a bicyclist or other wheeled transportation user will get a wheel stuck in the flangeway, a frequent cause of bicycle accidents at crossings.

The crossing presently has crossbucks and stop signs for warning devices. These warning devices are adequate, except that an additional crossbuck and stop sign shall be installed on the south (northbound) approach to the pathway crossing between the back of the west curb and the pathway. The pathway will be located about 21' behind the back of the curb.

The OCR is also evaluating the warning devices for the roadway crossing under a separate docket (9164-RX-300) and is awaiting new traffic counts to be provided by the City.

The OCR also notes that this pathway crossing will be a public crossing having the same legal status as any public highway or street crossing. In the past, the railroad has sometimes incorrectly treated recreational trail crossings as essentially private crossings by proposing real estate licenses with limited terms and requiring indemnification of the railroad, shifting the cost of crossing maintenance to the public and so forth. These real estate proposals have caused needless delays and conflicts that will hopefully not be repeated in this matter. Public recreational trail crossings are not private crossings.

In summary, the alteration of the crossing at-grade of the Wisconsin Central Ltd. tracks with 140<sup>th</sup> Street will promote public safety and convenience by providing a safer off-road access for pedestrian and bicycle route.

**Source of funding:** The City of New Richmond shall pay all costs for the crossing.

#### Ultimate Conclusions on the Issues

##### THE COMMISSIONER CONCLUDES:

1. That the alteration of the crossing at-grade of 140<sup>th</sup> Street with the Wisconsin Central Ltd. tracks in accordance with the design plans of the City of New Richmond in the City of New Richmond, St. Croix County will promote public safety and convenience.
2. That in order to adequately protect and promote public safety, it is necessary to maintain the existing reflective crossbucks and stop signs and to add a crossbuck and stop sign for the pathway south of the crossing.
3. That it is reasonable that the Wisconsin Central Ltd. bear no part of the cost for the crossing construction.

#### Conclusion of Law

##### THE COMMISSIONER CONCLUDES:

That the jurisdiction of the Office of the Commissioner of Railroads under §§195.28 and 195.29, Stats., extends to this matter. Accordingly, the Office enters an order consistent with the findings of fact.

Order

THE COMMISSIONER ORDERS:

1. That the **Wisconsin Central Ltd.** shall install and maintain a timber-plank and asphalt pathway crossing at-grade of 140<sup>th</sup> Street with its tracks in accordance with the design plans of the City of New Richmond in the City of New Richmond, St. Croix County by **June 30, 2005**. (Crossing No. 693 046B / MP 412.52)

2. That the **Wisconsin Central Ltd.** shall install and maintain one additional retroreflective back-to-back crossbuck with 2" wide reflective vertical strips on the front and back of the support post between the west curb and the pathway on the south (northbound) approach to the pathway crossing of its tracks with 140<sup>th</sup> Street at-grade in the City of New Richmond, St. Croix County by **June 30, 2005**.

3. That the **City of New Richmond** shall install and maintain one additional stop sign on a separate post between the west curb and the pathway on the south (northbound) approach to the pathway crossing of the Wisconsin Central Ltd. tracks with 140<sup>th</sup> Street at-grade in the City of New Richmond, St. Croix County by **June 30, 2005**.

4. That the **Wisconsin Central Ltd.** shall bear no part of the cost of the crossing construction, except for any cost assessed to the railroad pursuant to §195.60, Stats., for the investigation of this matter by the Office. The railroad shall not pass on those assessment costs either directly or indirectly.

5. That jurisdiction is retained.

Dated at Madison, Wisconsin, \_\_\_\_\_.

By the Office of the Commissioner of Railroads.

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Rodney W. Kreunen  
Commissioner of Railroads

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